

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

MISSION TOXICOLOGY, LLC, and SUN
CLINICAL LABORATORIES, LLC, § No. 5:17-CV-1016-DAE

Plaintiffs,

VS.

UNITEDHEALTHCARE INSURANCE
COMPANY, UNITEDHEALTHCARE OF
TEXAS, INC., and UNITED
HEALTHCARE SERVICES INC.,

Defendants.

UNITEDHEALTHCARE INSURANCE
COMPANY, INC., and
UNITEDHEALTHCARE SERVICES,
INC.,

Plaintiffs,

VS.

MICHAEL MURPHY, M.D., JESSE
SAUCEDO, JR., SAMANTHA MURPHY,
LYNN MURPHY, JULIE PRICER,
MISSION TOXICOLOGY, LLC, SUN
CLINICAL LABORATORY, LLC, SUN
ANCILLARY MANAGEMENT, LLC,
INTEGRITY ANCILLARY
MANAGEMENT, LLC, ALTERNATE
HEALTH LAB, INC., and LMK
MANAGEMENT, LLC,

Defendants.

No. 5:18-CV-347

**ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND
RECOMMENDATION (Dkt. # 42)¹; AND DENYING WITHOUT PREJUDICE
TO REFILING PENDING MOTIONS TO DISMISS (Dkts. ## 38, 17²)**

Before the Court is a Report and Recommendation (“Report”) filed by United States Magistrate Judge Richard B. Farrer on August 7, 2018. (Dkt. # 42.) The Report recommends consolidating the above entitled cases, Civil Action Nos. 5:17-CV-1016-DAE and 5:18-CV-347-DAE for all pretrial proceedings, including discovery. The parties had fourteen (14) days to file written objections to the Report, but neither party did so. See 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). Where, as here, neither party objects to the Magistrate Judge’s findings, the Court reviews the Report for clear error. United States v. Wilson, 864 F.2d 1219, 1221 (5th Cir. 1989).

After careful consideration and review, the Court **ADOPTS IN FULL** the Magistrate Judge’s Report. (Dkt. # 42.) In adopting the Report’s recommendation, the Court is not “left with the definite and firm conviction that a mistake has been committed,” which would otherwise warrant reversal under clear error review. See Barto v. Shore Const., L.L.C., 801 F.3d 465, 471 (5th Cir. 2015) (internal quotations and citation omitted).

¹ Unless otherwise noted, all citations to the docket refer to the lead case, 5:17-CV-1016-DAE. The Magistrate Judge’s Report and Recommendation can be found at docket # 24 in the related case, 5:18-CV-00347-DAE.

² This docket citation refers to the pending Motion to Dismiss filed on May 15, 2018 in 5:18-CV-00347-DAE.

Further, in light of the Court's consolidation of these cases for pretrial purposes, the Court **DISMISSES WITHOUT PREJUDICE TO REFILING** the pending Motions to Dismiss in each case. (Dkts. ## 38, 17³.) The parties shall have twenty-one (21) days from the entry of this order to refile motions to dismiss, should they choose to do so.

CONCLUSION

For the reasons set forth, the Court: (1) **ADOPTS IN FULL** the Magistrate Judge's Report (Dkt. # 42.); (2) **DISMISSES WITHOUT PREJUDICE TO REFILING** Defendants Motion to Dismiss in 5:17-CV-1016-DAE (Dkt. # 38); and (3) **DISMISSES WITHOUT PREJUDICE TO REFILING** Defendants Motion to Dismiss in 5:18-CV-347-DAE (Dkt. # 17). The parties shall have twenty-one (21) from the entry of this order to refile their motions to dismiss.

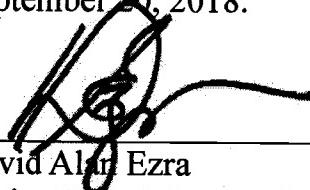
Accordingly, the Court **ORDERS** that Mission Toxicology et al. v. UnitedHealthcare Insurance Company, Inc. et al., 5:17-CV-1016-DAE, be consolidated with UnitedHealthcare Insurance Company, Inc. et al. v. Murphy, M.D. et al., No. 5:18-CV-347-DAE, for all pretrial purposes, including discovery. As the first-filed case, Civil Action No. 5:17-CV-1016-DAE will serve as the lead

³ This docket citation refers to the pending Motion to Dismiss filed on May 15, 2018 in 5:18-CV-00347-DAE.

case. The Court **DIRECTS** the parties to make any subsequent filings in the lead case, 5:18-CV-1016-DAE.

IT IS SO ORDERED.

DATED: San Antonio, Texas, September 20, 2018.



David Alan Ezra
Senior United States District Judge